

REMARKS/ARGUMENTS

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action. Favorable reconsideration of the subject application is requested in view of the comments made herein.

By the present amendment, claims 14, 22, and 32-35 have been amended. Claim 41 has been added. As such, it is now respectfully submitted that each of the claims are in condition for allowance.

Previously, claims 16-18, 25, 27, 31 and 37-40 were withdrawn from further consideration. Applicants respectfully request that the restriction requirement be reconsidered and that claims 16-18, 25, 27, 31 and 37-40 be rejoined. As discussed further herein, the independent claims are now allowable. Thus, the withdrawn claims should be rejoined.

The drawings were objected to under 37 CFR § 1.83(a) as failing to show every feature of the invention specified in the claims. Claim 14 has been amended to address this issue.

Claims 14, 22-23 and 28-30 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claim 14 has been amended to address this issue.

Claims 14, 22-23, and 28-30 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. Claims 14, 22, and 32 have been amended to address this issue.

Independent claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. (U.S. 5,738,064) in view of Nakayama (U.S. 5,517,967) and in further view of Yoho (U.S. 3,494,431). Applicants respectfully traverse this rejection at least for the following reasons.

Independent claim 14 states, in part, "further characterized in that each of the pivotable elements is directly pivotally connected to the second handle section (16) by a pivotable connection." Neither Lowe nor Nakayama nor Yoho, either alone or in combination, teach or suggest such structure.

It is respectfully submitted that Nakayama provides a clear teaching away that would render the prior art reference being modified unsatisfactory for its intended purpose and change the principle of operation of the prior art reference. See MPEP 2131.02, 2143.01, and 2145. Specifically, Nakayama states that an object of the invention is “to provide a safety device, for a throttle of an internal combustion engine, wherein the throttle lever, if inadvertently contacted, can be securely locked.” See Col. 2, lines 9-12. Furthermore, Nakayama teaches a throttle lever 20 and a throttle lock lever 30 fixed to a case, wherein the throttle lock lever 30 can cancel the lock condition of the throttle lever 20 by a throttle lever control means 40. See Col. 3, lines 50-57.

In distinction, as described in claim 32 and paragraph [0010] of the present invention, the handle (11) has a reduced “grade of precision between the handle sections by securing all levers, buttons and related components in one of the handle sections.” A lever or button may be secured in only one of the handle sections (16), which makes the function of the levers and buttons independent of the handle sections position in relation to each other. Thus, an object of the present invention is to provide a reduced degree of precision between the handle sections. In contrast, Nakayama makes no mention of the precision between hand grip portions 12a, 12a. Therefore, for at least these reasons, Nakayama cannot properly be combined with Lowe because it provides a clear teaching away from such a modification for the reasons above.

Even if Lowe, Nakayama, and Yoho are properly combinable, the references fail to teach or suggest the missing features of claim 14. The Examiner concedes on page 9 of the Office action that Lowe fails to teach that the lever and the button or the pivoting elements are directly pivotally coupled to only the second handle section, and indirectly coupled to the first handle section so that the functions of the pivotable elements 38, 40 are separated from the alignment of the first handle section relative to the second handle section.

Furthermore, Nakayama also fails to teach the missing features of claim 14. For instance, Nakayama teaches that the throttle lever (20) is pivotally connected to a pivotal shaft (14) that, in turn, is fixed to the case (12). However, nothing in the specification teaches or suggests that the pivotal shaft (14) is secured only to one of the case portions (12a, 12a) or to only one of the hand grip portions (12b, 12b). Nakayama states that the pivotal shaft (14) is fixed to the case (12), at one side of the case (12). See Col. 3, lines 39-40. Applicants assert that “one side of the case” refers to the left side (i.e., front portion) as viewed in Fig. 1, as evidenced by, “on the opposite side of the mount position of the throttle lever (20), inside the case (12), a throttle lever control

cancellation means (30) is pivotally mounted.” See Col. 3, lines 50, 51. In other words, the throttle lever (20) and the throttle lock lever (30) are secured at opposite sides of the case (12) (i.e., front and back). Thus, Nakayama fails to teach or suggest “further characterized in that each of the pivotable elements is directly pivotally connected to the second handle section (16) by a pivotable connection.”

Lastly, Yoho was cited with regard to claims 35 and 36. Therefore, Yoho also fails to teach or suggest “further characterized in that each of the pivotable elements is directly pivotally connected to the second handle section (16) by a pivotable connection.”

Therefore, for at least these reasons, neither Lowe nor Nakayama nor Yoho, either alone or in combination, teach or suggest all of the structure of claim 14, as is required by law to support a rejection under 35 U.S.C. § 103(a). Further, Nakayama cannot properly be combined with Lowe because it provides a clear *teaching away* from such a modification for the reasons above. Accordingly, claim 14 is now in condition for allowance. Applicants respectfully request withdrawal of the corresponding rejection of claim 14.

Claims 22, 23, and 28-30 depend from independent claim 14 that is believed to be in condition for allowance as set forth above. Accordingly, Applicants respectfully request withdrawal of the corresponding rejection of claims 22, 23, and 28-30 as depending directly or indirectly from allowable claim 14.

Independent claim 32 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lowe et al. in view of Nakayama. Applicants respectfully traverse this rejection at least for the following reasons.

Independent claim 32 states, “Handle (11) forming part of a hand held engine powered tool and comprising at least a lever or button for controlling the power of the tool, said handle (11) is made of at least two handle sections (15, 16), which handle sections (15, 16) are to a substantial part made of a plastic material and are permanently joined by welding or gluing, characterized in that the lever or button is secured in only one of the handle sections (16).” Neither Lowe nor Nakayama, either alone or in combination, teach or suggest such structure.

For the same reasons as above with regard to claim 14, applicants respectfully submit that Nakayama cannot properly be combined with Lowe because it provides a clear teaching away from such a modification.

Even if Lowe and Nakayama are properly combinable, the references fail to teach or suggest the missing features of claim 32. As conceded by the Examiner on page 7 of the Office

action, Lowe does not teach or suggest that the lever or button is secured in only one of the handle sections. Nakayama cannot provide these or other missing features of claim 32.

For the same reasons as asserted above with regard to claim 14, applicants assert that Nakayama fails to teach or suggest that the throttle lever (20) is connected to one of the hand grip portions (12b, 12b). Applicants argue that the throttle lever (20) and throttle lock lever (30) are secured at opposite sides of the case (12) (i.e., front and back).

In addition, Nakayama makes no mention of which method is used for joining the case portions (12a, 12a) or hand grip portions (12b, 12b). Similarly, Nakayama does not address the material from which the portions are made. Thus, Nakayama fails to teach or suggest a "Handle (11) forming part of a hand held engine powered tool and comprising at least a lever or button for controlling the power of the tool, said handle (11) is made of at least two handle sections (15, 16), which handle sections (15, 16) are to a substantial part made of a plastic material and are permanently joined by welding or gluing, characterized in that the lever or button is secured in only one of the handle sections (16)."

Therefore, for at least these reasons, neither Lowe nor Nakayama, either alone or in combination, teach or suggest all of the structure of claim 32, as is required by law to support a rejection under 35 U.S.C. § 103(a). Further, Nakayama cannot properly be combined with Lowe because it provides a clear *teaching away* from such a modification for the reasons above. Accordingly, claim 32 is now in condition for allowance. Applicants respectfully request withdrawal of the corresponding rejection of claim 32.

Claims 33-41 depend from independent claim 32 that is believed to be in condition for allowance as set forth above. Accordingly, Applicants respectfully request withdrawal of the corresponding rejection of claims 33-41 as depending directly or indirectly from allowable claim 32.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

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If there are any fees resulting from this communication, please charge same to our
Deposit Account No. 16-0820, our Order No. ABE1-38148.

Respectfully submitted,
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